

University of Michigan Law School

University of Michigan Law School Scholarship Repository

Book Chapters

Faculty Scholarship

1999

In Defense of Revenge

William I. Miller

University of Michigan Law School

Available at: https://repository.law.umich.edu/book_chapters/130

Follow this and additional works at: https://repository.law.umich.edu/book_chapters



Part of the [Comparative and Foreign Law Commons](#), [Law and Society Commons](#), and the [Legal History Commons](#)

Publication Information & Recommended Citation

Miller, William I. "In Defense of Revenge." In *Medieval Crime and Social Control*, edited by B. A. Hanawalt and D. Wallace, 70-89. Medieval Cultures, 16. Minneapolis: Univ. of Minnesota Press, 1999.

This Book Chapter is brought to you for free and open access by the Faculty Scholarship at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Book Chapters by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.



In Defense of Revenge

William Ian Miller

One of the risks of studying the Icelandic sagas and loving them is, precisely, loving them. And what is one loving when one loves them? The wit, the entertainment provided by perfectly told tales? And just how are these entertaining tales and this wit separable from their substance: honor, revenge, individual assertion, and yes, some softer values, too, like peacefulness and prudence? Yet one suspects, and quite rightly, that the softer values are secondary and utterly dependent on being responsive to the problems engendered by the rougher values of honor and vengeance. Is it possible to study the sagas and not be attracted to the nobility, the dignity, the heroism of an ethic of "face," not to thrill to revenge and the open admission that it is the most satisfying way to reestablish the moral, if not the social, order after a wrong has been done? The risk, it so happens, is in coming to love their way as well as their way of talking about it.

Revenge, for us, is not a publicly admissible motive for individual action.¹ Church, state, and reason all counsel against it; as sin, as crime, or as an irrationally backward-looking obsession with sunk costs. Officially revenge is a bad thing, although collectivities are given greater leeway than individuals in asserting it as a justification for action. The very polity that will not allow its citizens to claim revenge as justification in its courts of law sees nothing strange about telling its people that revenge and honor are good reasons for invading another state. In sports, the desire to pay back for past humiliations is thought to add to and not merely to reproduce the motive of winning for the present and future. The big difference between us and the denizens of the saga world is that revenge was constitutive of much of their public, personal, and moral order. The person who did not want to take it had to feel shame for not wanting to, or at least had to come up with a plausible account as to why it was not shameful for him not to seek revenge; this marks an obvious contrast with us.

By the twelfth century in Iceland, Christianity helped provide a discourse for vengeance avoidance and helped legitimate a politics of forgiveness.² But even Christianity could not tolerate too much forgiveness. It allowed revenge to God and kings in the same proportion that it insisted on denying it to average mortals.³ A practical and somewhat legal-

istic priest intent on revenge could finesse the matter by making use of God's delight in revenge. Thus Gudmund Arason, concerned not to lose his ordination should he kill the man he outlawed, but stricken with anxiety at the prospect of dishonor for not killing him, offered God the property he stood to gain from the case if God could contrive to get him out of the dilemma that honor in its collision with honoring clerical vows produced. God was obliging. He intervened to have the outlaw killed in a general brawl in which Gudmund was in no way complicit.⁴ There were ways of honorably avoiding the demand for revenge without invoking Christianity. But these were only generally available to the honorable, that is, to those who gave every impression of being willing and able to take revenge the next time around.⁵ True, those who urged peace were honored and appreciated, but most peacemakers were positioned as third parties, not as people who were supposed to take revenge.⁶ The point, however, is not that viable alternatives to revenge did not exist; it is that the implementation of those options required work, a practical sense of when and how to back off and back down, before others would believe that forgoing revenge was an act of courageous self-denial rather than cowardice.

Not so with us, at least as an official matter. Revenge has been removed from the center of our practical lives and has been relocated to the fantastic marches. Revenge is there, to be sure, via fantasy in movie and via fantasy in foreign affairs. It has little legitimate public life in the normal domain. Instead, among one repressed segment of us, revenges go on inside as fantasies of getting even, of dominating, of discomfiting those we envy, fantasies that are what Nietzsche supposed were the substance of *ressentiment*. And in another less repressed segment revenge still thrives, but it is understood that that very thriving is the determinative element in the ineffable vulgarity of young lower-class males.⁷ In our world revenge becomes either small-minded or vulgarly loud and adolescent.

Officially we subscribe at some level to the evolutionary legal historical account of the nineteenth century that supposed that natural selection preferred compensation payment to blood revenge and then state bureaucratic law to compensation. By this account revenge died simply because it was obsolete and nonadaptive. We are also heirs to a competing account generated by contractarian political theory. Like the legal-historical one, it supposes a vengeful world in times long past, but it departs from the legal-historical model in seeing revenge not as disappearing by some inevitable force of human progress, but rather as something that must be continually overcome by acts of will, conscious political commitment, and wise social planning. If for the legal historian the order-threatening nature of honor and revenge doomed them by natural selection to extinction, then for Hobbes honor and revenge doomed humanity unless one worked to devise institutions to suppress them; Hobbes knew

that honor and glory are as much a temptation to us as they are a terror. Both accounts agree, however, that it is better for civil society and the rule of law that honor (and thus revenge) die a death.

So it did after a fashion. That is, the ruling elites officially gave up on it, substituting reason and cost-benefit analysis instead. But if the upper classes learned to walk away from fights with each other, the lower classes, the medieval "meek," who by aristocratic ideology were denied the very capacity for honor, kept it alive in barrooms and in back alleys; even the children of the elite still cared about these things on the playground. Unofficially, of course, the upper classes still cared to get even, held grudges, and behaved like normally vengeful human beings, but their revenges were transmuted and took place in economic arenas and muted social activities like gossip and slighting rather than in face-to-face confrontation. Honor and revenge did not so much disappear as become vulgar and unfashionable, a source of embarrassment to the refined and civilized that needed to be glossed over and carried out in disguise, if carried out at all.

At one level, the contrast between us and saga society is the difference between a society in which revenge is a publicly professable motive for action and one in which it is not. But the contrast, although in some broad way defensible, ends by being subverted by the thinness of the notion of revenge that is put on the table, either to be condemned by moralists, rationalists, and political theorists or, with a somewhat self-conscious sense of perversity, to be welcomed by romantics as the substance of gothic fantasy. Romantics tend to underestimate the degree of rationality, pragmatics, and cold calculation that motivated a lot of honorable and vengeful action. One always suspects that many romantics, for all their fascination with violence, are rather often strangers to blood, pain, and the smells of death. The sagas, as any reader of them knows, are only occasionally romantic in sensibility. They share with the best heroic literature the ability to articulate and sustain powerful critiques of feud, revenge, and honor. The heroic world is not simply one of joy at the recovery of honor and *Schadenfreude* for the shame of one's adversary. That world is also painfully aware of the costs, social and individual, of honorable self-assertion. In our world the story is not just one of the triumph of reason, law, and gentle socialization, either. Despite the antihonor discourse and pretense that revenge is inimical to a just legal order, we still feel at some visceral level that the world of honor and revenge is nobler than ours, and it still remains for us grand and frightfully alluring. We might suspect that when God claimed vengeance to himself—"Vengeance is mine, saith the Lord"—he was not taking upon himself a burden but rather selfishly reserving to himself a pleasure too good to share with mere mortals. It was because revenge was so alluring that barriers of sinfulness, criminality, and other forms of taxing it were felt to be necessary. When, after all, was the last time some-

one decided to make sin and crime out of something that has no allure at all?

Adherents to the ideology of the rule of law cannot disguise their horror and contempt at the rudeness and physicality of honor-based action (and their pleasure in a social order that allows people like themselves to occupy positions of prestige). And in revenge they connive to construct a notion of revenge that trivializes it. Revenge is thus distinguished from retribution by moral, legal, and political philosophers. Retribution can still be mentioned in polite company and only with minor apology offered as a respectable reason for punishment of wrongs, administered as it must be by the state in a controlled, proportional fashion. Revenge, in contrast, is portrayed as crazed, uncontrolled, subjective, individual, admitting no reason, no rule of limitation. It is conceived of not only as lawless, but as unruled and ruleless. Revenge, so understood, is anathema to the rule of law, but a source of fascination for the romantic. Criminal law books quote passages like this: "Vengeance is self-serving since it is arbitrarily (by its own authority) taken by anyone who feels injured and wishes to retaliate. Vengeance is not defined by preexisting rules nor proportioned to the injury avenged." These observations come from a dedicated proponent of capital punishment anxious to deny that capital punishment is merely revenge.⁸ Consider how Robert Nozick distinguishes revenge from retribution, turning revenge by definitional fiat into a pathology rather than a behavior upon which many societies we still think of as rather glorious based their moral and social order. (I take his distinction here as representative of the general antirevenge tradition of political, moral, and legal philosophy):

1. Revenge is for an injury; retribution for a wrong.
2. Retribution sets an internal limit to the amount of the punishment according to the seriousness of the wrong; revenge need not.
3. Revenge is personal; the agent of retribution need have no special or personal tie to the victim of the wrong for which he exacts retribution.
4. Revenge involves a particular emotional tone, pleasure in the suffering of another, while retribution need involve no emotional tone.
5. There need be no generality in revenge. Not only is the avenger not committed to revenging any similar act done to anyone, he is not committed to avenging all done to himself.⁹

Some might wonder whether we only gain by preferring retribution to revenge, even with revenge so unfavorably defined. We might wonder whether a serious commitment to restoring the victim's dignity, rather than worrying only about how the victimizer might not be deprived of his, might lead us to prefer revenge to retribution in point 3. As to point 4, what do we suppose retribution without the accompaniment of emo-

tions, such as a sense of duty, indignation, disapproval, or outrage, would look like? How could retribution possibly be justified without an emotional accompaniment? Unemotional bureaucratic implementation of punishment looks much like law according to Kafka. Nozick's problem more correctly must not be with emotions in general as with particular emotions, namely *Schadenfreude*. (One might reasonably wonder whether *Schadenfreude* is in some real sense a necessary feature of corrective justice). Point 5 prefers generality in the application of sanction; there is much to recommend this position, but it comes at a cost: it rejects mercy in favor of dreary bureaucratic uniformity. Let's put all this aside as raising issues both too complex and too divisive for quick disposition. What is clear is that revenge in the eyes of this tradition is merely a stand-in for anarchy and anomie. It is an uninteresting straw man. Of course no one wants to live around people carrying out revenge without measure for any imagined slight. Honor-based vengeance cultures found such people no less troublesome than bureaucratized societies fear them likely to be. And honor cultures knew how to handle such misfits with more than a slap on the wrist. The Norse called them berserks or *ójafnaðarmenn* (men of no measure) and usually found ways of disposing of them.

We might certainly want to historicize the notion of revenge; we would want to see if it means one thing in a culture in which it is valued, a culture openly committed to the norms of honor and "face," and another when it is consciously relegated to the status of "that which must be suppressed and overcome." In an honor-based culture we might suspect that revenge will be richly embedded in a complex normative structure that regulates it, cabins and constrains it, so that any meaningful distinction between retribution and revenge disappears.

The Icelandic legal order had an intimate relation with revenge.¹⁰ Icelandic law understood itself as providing an arena in which a modified form of revenge could take place. Iceland had no state authority, no real lordship; the responsibility for righting wrongs was the wronged person's. He sued and he enforced the judgment unless he assigned his action, in which case the responsibility devolved upon the assignee. The law did not issue money judgments in disputes involving injuries or killing. The penalty was outlawry, which allowed anyone to kill the outlaw with impunity and obliged the judgment holder to do so. This was very close to revenge pure and simple. But it was a constraint on pure feud, a rather big one. One could only sue someone who had engaged in culpable conduct, whereas in feud, one could kill the kin of the actual wrongdoer. The law limited the range of possible revenge targets, and it compensated for this restriction in a strange way. Suppose Thorgrim and six others attack and kill Bjorn. Bjorn's brother can outlaw all seven of the assailants, who can then be killed as outlaws. If Bjorn simply takes revenge, he will be thought to be acting without measure if he takes more than a life or two, depending finally on how worthy his vengeance targets turn out to

be: the more worthy your victims the fewer you need to kill to complete your vengeance.¹¹ The law, in other words, contemplated more corpses than feuding norms. In some respects feuding norms, in fact, supplied restraint to the law. Seldom do we see all those who engaged in conduct making them liable for outlawry actually get outlawed, or if outlawed actually get hunted down and killed.¹² Compromises and arbitrated settlements were usually worked out. Those who went to law recognized the more limiting constraints of feuding norms by rarely going after everyone they had a claim against to the full extent of the law.

If outlawry looked not all that different from revenge killing, what was the inducement to go to law? In either case one courted the danger of hunting down dangerous men. The law, it seems, conferred practical advantage by conferring moral advantage. Even in this stateless setting, with enforcement up to the plaintiff, people cared about the law, held it in reverence, and thought it mattered. Law accorded legitimacy to actions whose legitimacy might otherwise be uncertain. Legitimacy had the advantage of inducing others to assist you in your endeavor and to desist in aiding or abetting your outlaw. The law punished assisting an outlaw with lesser outlawry (three years' exile and loss of property), and the sagas show that the threat of prosecution was not a negligible deterrent.¹³ Having the law with you, interestingly enough, also altered or even suspended the rules of fair play. The law not only induced others to join your posse, it made a posse look like the right thing to do. It was considered dishonorable for three to attack one in revenge, but foolish for a man to hunt down his outlaw alone and not take advantage of numbers.¹⁴ And finally, by going to law you made a public decision to limit your response to the actual wrongdoers. No doubt this came as a nice relief to those innocent kin of the wrongdoer who still might have been appropriate vengeance targets had you decided to pursue that course. Such people might now have a self-interested reason not to oppose you too aggressively in your legal action against their kinsman. They surely had no great interest in getting you to change your strategy from legal recourse to blood revenge. By going to law you have let them off the hook.

If outlawry wasn't a sufficient concession to the blood urge, the law allowed a limited right to kill as a kind of summary judgment. Simply put, a man (and his companions) had a right to avenge assaults, injuries, and killings in which he would be the plaintiff up to the time of the next Allthing.¹⁵ Sometimes this right was limited to the place of the incident; sometimes it was granted to the world at large for twenty-four hours after the event. The right to kill was also given a man to avenge sexual assaults or attempted sexual assaults on six women: wife, mother, daughter, sister, foster daughter, and foster mother.¹⁶ The right to kill, however, like a legal judgment, limited the class of expiators to those who actually did the wrongful act.¹⁷ The law was thus willing to waive its own obsession with procedure and admit that results were the im-

portant thing. For our purposes, the point is that law can go a long way toward countenancing revenge and still remain law. The wronged person could kill now within limits, but he would have to prove later that he had the right to kill. This, in fact, does not look all that different from our rules of justification; it's only that these people had much broader notions of what constituted justified killing. In this respect the law was very much in touch with the values of honor.

Then there were feuding norms. Honorable people did not undertake revenge lightly. Since revenge left not only you but your kin open to reprisal, those kin had a genuine interest in your vengeance-taking designs; you might have to rein in your vengeful desires to accommodate their interests. Feuding norms departed from legal rules in one key respect. In feud, as indicated above, you were not required to kill the person who had wronged you; his brother, cousin, uncle, son, father, or even close friends could serve just as well. This principle of group liability did much to constrain wild revenge. If you could get killed for your uncle's jokes or your cousin's womanizing, then you had a very keen interest in your uncle's sense of humor and your cousin's sex life. You policed those with whom the other side was likely to lump you. Revenge was never properly an individual matter; people consulted with their kin and friends before taking it, thus socializing the decision-making process. It was not just up to the individual who felt himself wronged. Kin and others would let you know if you were being supersensitive, and they would goad you to do your duty if you were not being sensitive enough. What they were concerned with was the appropriateness of your response, and they were there to help you get it right. You also needed your kin and friends for more than just advice. Most likely, you needed their help in carrying out revenge, and you would surely need their aid when it was your turn to be on the defensive. Above all, you needed the audience, the public, the uninvolved, to recognize that you were behaving appropriately and not being supersensitive. For the uninvolved were the possible class of supporters of your enemy, and support him they would if you were being asocial or merely self-assertive. If your cause was just, you would have an easier time getting third-party support; if it wasn't, it was easier for your enemy to get that support.

Feud, of course, was more than just doing the justice of avenging wrongs. It was also a way of engaging in politics. To the extent that feud looked back on past wrongs, it was judicial in its aspect; to the extent that it looked forward to acquiring power, it was political. But in either case it was subject to strong normative constraints. The feud and general notions of propriety were governed by notions of balance and reciprocity. Although the notion of balance is rich in ambiguity there were still limits. If people didn't stay within them they attracted communal hostility as well as legal liability.

Right action, acting with right, means more than just acting in accord with substantive legal rules; it also means acting *properly* when doing right. Propriety inevitably brings us to the world of emotion, gesture, and display. With regard to revenge, propriety is a matter not only of selecting a proper target but also of proper timing and proper demeanor. Three Norse proverbs give us rules of thumb: "Blood nights are the hottest"; "Only a slave avenges himself immediately, but a coward never does"; and "The longer vengeance is drawn out the more satisfying it will be."¹⁸ One can begin plotting an emotional configuration of revenge from these proverbs. Anger and the shame that generates anger are the first things felt. The saga characters and the sagas themselves are rather reticent about talking about inner mental states, but peoples' bodies give them away. Characters turn red; they faint; they burst into tears or even hysterical laughter; they swell and sweat. Grief, anger, rage, fury, and shame surge, and the surge excuses, even justifies, hasty action. Blood nights, it seems, extended no more than three days. We see one saga character thinking it wise to absent himself from a locality for three days after a killing.¹⁹ After that, it was unseemly to rush to vengeance. This suggests that the emotional states that motivated seemingly revenge were in accord with cooler blood. Most revenge in the sagas is not the result of irrational slashing back, but it would be equally wrong to think of it as purely calculated instrumentality, although plenty of calculation underscored a good portion of successful vengeance takings. Vengeance taking required planning. One needed support, one needed information about one's target, one needed to consult about the advisability of whom to hit and when. These were political matters as well as matters of honor. The saga world, however, would not have recognized a distinction between honor and politics.

The psychology of revenge was a rather complex affair, and it would misrepresent that complexity to situate it within any particular vengeance taker. Revenge was only rarely an individual matter, and the different members of the group consulted or assembled to undertake it would be variously motivated. Some members of the grouping, usually young males, would stay furious much longer than the period contemplated by blood nights. Their role was to urge quick, aggressive, and often disproportionate action. These in turn were restrained by older men and others recruited who were less stricken by the death or insult that needed avenging but still felt the necessity and the propriety of vengeful action. For these people vengeance is inseparable from a sense of determination, a sense of duty, fueled at times by hatred, at times by a kind of malicious delight in being able to terrorize one's opponent. Nonhasty revenge was strategically wise practice. Not only did it give you the time to think things through and get them right, it also was a period of wariness for the possible class of victims who had to live with apprehension and anxiety.

Within the complex of shame, anxiety, anger, and purposiveness that motivates revenge,²⁰ anxiety is more than the lot of the possible vengeance target. No small amount belonged to the vengeance takers, who, despite the proverbial counsel about the deliciousness of slow revenge, knew that between the act of shame done them and the taking of revenge for it was the period of dominance by their enemy, the period of gossip about their shame and doubt about their capacity to avenge it. This was the period of other people's pleasure in one's own pain. Such knowledge about others' delights in one's own misfortune is not easy to bear any time, but in an honor-based society it is truly not to be borne, because the gossip of others and their delight constitutes the process by which one's social rank is readjusted downward. Nothing is more painful, nor more important.

If vengeance was mingled with politics, that is, with peoples' claim for relative rank and domination, it was also mingled with grief and how grief was properly displayed. Grief is an emotion that has points of significant overlap with frustration. Nothing you can do can bring back the object of grief. But it is precisely the frustration about the finality of grief that propels a desire to do something, either as a vent for frustration, or maybe, more magically, in hopes that action will bring some kind of reversibility to nature. Grief, frustration, anger, hatred, and revenge are elements in a kind of syndrome. This is not peculiar to Iceland. Grief, rage, and head-hunting go hand in hand among the Ilongot;²¹ in *Macbeth* Malcolm can urge Macduff thus: "Let's make us med'cines of our great revenge / To cure this deadly grief. . . . Let grief / Convert to anger; blunt not the heart, enrage it" (4.3.214–15, 228–29).

Is it by a cultural or linguistic fiction that we pretend to demarcate certain emotions from one another? The oxymoron pays tribute to the fact that we can experience contrary emotions at the same time, and although no one would confuse joy with remorse, the notion of joyful remorse or remorseful joy is not inconceivable. Just how do we constitute a pure grief that is not variously bound up with frustration, anger, vengeance, or despair? We might suppose that there are different griefs appropriate to different cultures, and within cultures to different ages, statuses, and genders. In the sagas, grief was manifested properly in old men by their taking to bed, at times with exaggerated ritual display.²² For younger men, grief went with rage and hatred or a grim sense of purpose.²³ Women were allowed tears, but these were often tears of rage. Women, more than anyone, were supposed to be vengefully furious.²⁴ It is of some note that the Germanic word *harm* meant "grief" in Old Norse and both "grief" and "an offense or injury" in Old English, and although *harm* lost the sense of grief in Modern English, the semantic history of the word reveals rather nicely the intimate association between grief and the occasion for revenge.

Whatever revenge was in saga Iceland it was not what the antihonor, antirevenge discourses of political theory, moral philosophy, and utilitarianism wish to make it. It is constrained by norm, by law, and by a firm sense of the emotional accompaniment that must attend it for it to be properly motivated. Without "harm" or "shame," that is, without wrongs and the proper attendant emotions, it was unwarranted. That is, revenge had to be just and proper or it was simply another wrong that needed to be avenged. Here is where the antirevenge tradition makes a telling and practical point. How, they ask, do just revenges not engender a counterrevenge? The innocent kin of the person who rightly dies at the avenger's hand also will be rightly aggrieved. Won't they now have a claim for blood? In fact the critique is not wrong, and the feud often works precisely in that way. Moreover, wrongs don't simply arrive preinterpreted. What was laughed off at the time as a pleasantry among friends could be later recalled and interpreted as an avengeable offense when relations had soured. If the temporal frame of reference was extended too far back in the past, virtually any presently aggressive behavior could arguably be claimed as revenge for some long-forgotten wrong.

The trick is finding a principled way to understand when an action is a justified reaction rather than simply an aggressive move. Icelandic law attempted to solve the problem in such a way as to give avengers an incentive to take the route of getting an outlawry judgment and then killing the culprit rather than doing it without legal confirmation. The law made the killing of an outlaw privileged. Any revenge taken for the death of an outlaw could not itself be legal.²⁵ Killing someone in revenge before securing the judgment, no matter how rightful, subjected you to an outlawry action brought by the corpse's kin. There you could raise the issue of the justifiability of your action by way of defense. But these defenses were not as wide-ranging in their coverage as the claims upon which you could have had your enemy outlawed in the first place.²⁶ Without the intervention of the law, however, it was not unusual that a justifiable revenge could give rise to an equally justified reprisal. If the law tried to put an end to an infinite series of reprisals, it did so at the cost of frustration of grieving kin and friends of the outlaw. They might still take revenge, illegal now, but honor sometimes parted with the law, even in Iceland. In fact, litigants recognized that if peace were to stand a chance, the grief of people who had done no wrong would have to be assuaged and compensated. As a result, most disputes of any seriousness tended not to end in a legal judgment so much as in more informal settlements in which the reasonable claims of grieving people could be taken into account. It is thus quite common for someone who rightfully killed an attacker in legal self-defense to compensate the attacker's kin for their loss.

Suppose the law has the capacity to worry and be annoyed. The Icelandic law, then, was less worried by the disorders of revenge than by

the peace purchased by the compromise of outlawry claims. Settling out of court annoyed the law. The law, as we have seen, was rather generous in giving a right to kill, but was very stingy when it came to authorizing settlement. In fact it purported to subject to lesser outlawry anyone who settled any case involving killing or wounds without obtaining permission from the Allthing first.²⁷ The sagas show no evidence that the rule was anything more than wishful thinking, but it reveals a ranking of concerns: it shows the law more jealous of its own prerogative than of bringing peace. What do we make of this? It may simply evidence the culture's view that of all the problems facing it, killing was not as important as subjecting all serious dispute to some official public scrutiny, even if the cost of that scrutiny was greater loss of life. Or we may simply see it as an earlier instance of the sad tendency of institutions to prefer their own power to the substantive matters that give them their missions and justify their existence.

On that bleak note we move to the present to see how revenge fares in our public fantasies and whether its style confirms the straw-man view of revenge as mere self-assertion without order, mayhem without measure. We will examine the style of revenge and the character of the avenger in that genre of film classically represented by *Death Wish* and *Dirty Harry* and myriad others adopting their form. The modern revenge film is characterized by a specific emotional economy that marks the genre, in fact determines it. Emotion-based theories of narrative are as old as Aristotle. Tragedy takes us through pity and fear to catharsis; the revenge narrative takes us from indignation and outrage at a wrong, via fear and loathing of the wrongdoer, to a sense of satisfaction of having the wrong righted on the body of the wrongdoer. The outrage and sense of satisfaction are crucial and definitive of the genre, but along the way from outrage to satisfaction we also expect to experience some mix of apprehension, hopefulness, anxiety, despair, terror, disgust, and suspense.

These films are about justice, doing justice, with equal emphasis on the doing and the justice. They are related to action and horror films, but there are crucial differences that distinguish the genres. In the revenge genre the hero hunts down the wrongdoer; in action films the hero tries to escape a wrongdoer intent on harming him or her. An action film hero is the fugitive unjustly accused, or she, more likely, is the "final girl" in various slasher films²⁸ or big-budget action-horror films such as the *Alien* and *Terminator* movies. These hunted heroes often become avengers mostly as a matter of self-defense, but their situation is quite different from that of classic avenging types like *Dirty Harry* or Charles Bronson. The hero-as-hunted genre has a different emotional economy from the vengeance film. The vengeance film, as we noted, depends on indignation leading to a sense of satisfaction; in the hero-as-hunted it is

apprehension and horror leading to the experience of relief. One is the experience of escaping injustice, the other the experience of righting it.

Villains in the action-horror genre often pretend to a claim of right; they style themselves as avengers in their own revenge dramas. This is Max Cady in *Cape Fear* or the villains in *Patriot Games*. These are would-be avengers who aspire to the status of avenger but who are not granted it. We, the third-party observers, are the arbiters in this matter. And the chief reason we do not grant them legitimacy is that we judge them to be acting in accord with the straw-man model of revenge. They are not reacting to wrongs, but either to punishments that they deserved or to imagined insults. In the hero-as-hunted genre in which they find themselves their claims are recognizably without right, their methods of revenge pathologically disproportionate, and their motivation inappropriate. They have idiosyncratic notions of their own right, and as a result they do not engage us sympathetically. Look how thoroughly we reject the straw-man conception of revenge constructed by political and moral philosophers. We do not call Max Cady an avenger; we do not even call him an evil avenger. We simply call him a villain. We value the avenger status too much to accord it promiscuously to anyone with some crazed unconfirmed sense of his own wrong. The avenger status carries with it right and legitimacy, and thus we confer it on those whose claims are deserving. As in the saga world, revenge must be bound up with publicly sustainable claims of right.

In the saga world honor and justice are inextricably linked to a notion of reciprocity by a foundational metaphor based on debt, obligation, and the exchange of gifts. A wrong, like a gift, must be repaid;²⁹ not to repay is to live in shame or to be forever lower than the person you owe. The notion that the wronged person is a debtor means the wronged person is obliged, has a duty, not just a right, to pay back. We too subscribe to debt metaphors in our basic theories of corrective justice. As in the saga world, we understand wrongs as obliging us to act, to pay back what we owe, a most honorable commitment unfortunately vulgarized among us in the idiom "payback time." But we talk rather loosely about paying and paying back. We equally think of the wrongdoer as owing; he too is a debtor. We thus speak of the villain as *paying* for his wrongs, as owing a debt. Yet notice what happens when we make the wrongdoer a debtor: we blur something that is rather clear when it is the victim who is the debtor. When the victim is cast as debtor he knows to whom he owes repayment; the wrongdoer is never quite clear to whom he owes his debt. It's all rather fuzzy. He may be understood to owe the Furies, the gods, the state, or society (only rarely is he thought to owe his victim). The fuzziness, we see, is not just a matter of determining to whom among various claimants the wrongdoer owes his debt, but that the entity to whom he owes the debt is not flesh and blood, but itself a fuzzy abstraction.

The idea of the victim as debtor is completely consistent with an ethic of honor and revenge. We should make that stronger: it seems to be a necessary feature of honor and revenge. Nor is the idea of the wrongdoer as debtor inconsistent with honor and revenge. It is surely possible to understand the wrongdoer as paying for his wrong as he gets paid back by the victim. Feuding societies were not above this confusion either, since the wrongdoer often could negotiate an option of paying compensation to buy off the avenger's ax. But the idea of wrongdoer as debtor is also consistent with claims of a central authority interested in claiming jurisdiction and asserting an overriding claim to people's claims against each other in a way that the notion of the victim as debtor is not. Our revenge genre mixes its metaphors. We have two types of avenging hero: one who avenges outrages done to himself or to his loved ones; another who is a kind of professional avenger, usually a renegade soldier or police officer. The former is Paul Kersey (Charles Bronson) in *Death Wish*; the ideal model for the latter is Dirty Harry (Clint Eastwood). Roughly speaking, one pays back; the other makes others pay. Bronson ultimately becomes a generalized avenger doing justice where it needs to be done, and Harry inevitably gets wronged in his own right by the villains he hunts down. Still, without regard to the precise type of hero, the revenge genre is attracted more to the model of wrongdoer as owing than victim as owing. The sense of satisfaction it depends upon for its conclusion is achieved more by seeing the victim get it than by seeing the avenger reclaim lost honor. This only seems natural, given that the real victim is usually dead (or a woman)³⁰ and the avenger is operating as an agent or surrogate for the original victim. These movies have strangely little to do with the hero's honor reclamation, in spite of the genre's commitment to a macho style; they are more fantasies of effective state-delivered justice. Harry, after all, gets his right to do justice from being an employee of the state.³¹

Films in the revenge genre derive additional force from their implicit and at times explicit critique of the law. In their view, the law has lost sight of justice. More concerned with its own internal coherence, the law is depicted as preferring form to substance, and not just any form, but form that always seems to favor wrongdoers over law-abiding citizens. Thus Miranda warnings and the exclusionary rule are understood to make a joke of a constitution now enlisted to the cause of villains and criminals and forgetful of the claims of victims. Constitutional principle and the rhetoric that maintains it become the rank muck from which lawyers construct their tricks. This is a vision of law as either so foolish as not to know when it has been had or so knavish as not to care. Another critique, less virulent, takes this form: Even when the law gets it right, gets the criminal and brings him to justice, that justice is only second-best justice. The problem is that legal conclusions are never

quite as satisfying as purely vengeful ones. The law promises closure and gives us parole and probation instead; it locks up the rapist only to release him to come back and kill the complaining witness.³² Revenge accords more aesthetically with our sense of an ending; our fantasy is that revenge provides true closure. Unlike the grimmer and more realistic view of revenge in the saga world, the revenge genre gives us finality by detaching the villain from anyone interested enough to avenge him once he is killed.

The avenger, we see, must have right, and having right, he generally works to assist a stricken, inept, or wayward law in doing justice. The avenger does not view himself as providing a complete alternative system to formal bureaucratic law. He views his role as interstitial. He comes to remedy and complete the law, not to replace it. He has no problem with the idea of legal rules when they deliver justice, with justice conceived in terms of satisfying the rightful indignation of third parties against predatory wrongdoers and remedying the harms of victims. He gets the law to fulfill its central mission when legalism prevents it. Dirty Harry does equity. He is not a law unto himself. He works where the law fails to deliver justice. Like a chancellor, his right to intervene depends on the law's getting a chance to get the right result; his actions are in every sense derivative of the law, secondary, complementary, and equitable. In fact, the idea of Harry would make no sense in a world of no law, for what drives his style of heroism in particular is its implicit critique of the legal system. He needs Miranda warnings, search-and-seizure rules, the right against self-incrimination to have a purpose. Without such rules (and with stiffer punishments), the genre suggests, the law would do just fine and avengers would be out of work. And like the chancellor, he acts upon the body of the wrongdoer or the person unjustly benefiting from legal rules that are producing offensive, shocking, and unconscionable results.³³ The equity that motivates Harry does not deny the emotional economy that drives justice. Rightful indignation demands to be compensated with a sense of satisfaction. Harry would lose his moral force (and box-office allure) if he could not satisfy this most moral of emotions.

The revenge that plays the straw man for various traditions of legal and political theory is, as indicated above, by definition anarchical, uncontrolled, unprincipled, unbalanced. That is not a description of avengers in the sagas or in our revenge films. As we noted earlier, only villains are attracted to the straw-man model of revenge. They are the ones who operate solely by their own inner light and against general norms of propriety, right, and proportion. Consider, in contrast, just how constrained and ruled the avenger is. He must, after all, do justice, and that is no small constraint. And he is not the sole determiner of justice's demands; we are. It is we who determine whether he is hero or villain by how we apportion right between him and his adversary. His actions must accord

with our sense of justice or he is not a hero or the film is not a revenge film. He must right wrongs and not just any wrongs, but ones we tend to feel are inadequately remedied at law. Should his notion of wrong become too expansive, he becomes a meddlesome bully or pathological in the manner of Travis Bickle in *Taxi Driver*, for whom the mere existence of others was an avengeable offense: "You talkin' to me?"

Notice the significant contrasts between the film avenger and his saga counterpart. Unlike the saga avenger, the film hero cannot kill the innocent father, son, or brother of the villain unless they too have committed avengeable offenses. Also unlike saga avengers, ours are inevitably loners. This makes for a rather paradoxical contrast with the saga hero, who is always deeply embedded within kin group and community. Paradoxical because the saga hero ends up being more individualized for such embedding than our avenger, who becomes almost indistinguishable from his office. He is his role and nothing more, a pure avenger. The saga hero, on the other hand, is only called to be an avenger two or three times in his life; he must also manage his farm, be a father, brother, husband, adviser, friend, and leader. For him, as a result, taking vengeance is a psychological drama in a way that it is not for the film hero: the saga avenger is more Hamlet than Harry. He thus ends up more individualized than the film avenger, in spite of the traditional wisdom that denies the capacity for deep inner lives to denizens of honor cultures. Our avenger's parody of romantic individualism rather weakly individuates him. He postures as the most romantic of individuals, refusing to follow along with the general level of incompetent docility that characterizes the bureaucratic style, while at the same time molding himself seamlessly to his ministerial function as a doer of justice. There is no office/person distinction here because there is no person distinct from the office, just a principle and a mission: a doer of justice.

I do not wish to overstate the case. The avenger has some strong areas of disagreement with the law. Here is a partial list:

1. Avengers will hear of no insanity defense for the nonpathetic insane, that is, for those whose insanity makes them objects of fear and loathing rather than of pity. In the same vein, notions of diminished capacity that concede too much to determinist models of human behavior are not acceptable. There is thus opposition to lessened culpability or defenses for riot syndrome, junk food, Prozac, black rage, posttraumatic stress (except for Vietnam vets)—even, I would bet, for homosexual panic.
2. The Fifth Amendment right against self-incrimination is serviceable mostly to rogues.
3. There is a general view that the law is too obsessed with wrongful acts rather than with evil characters. Why not let juries hear evi-

dence of prior convictions and arrests, prior complaints, and so on? That teeming assemblage of awful people who continually give offense without ever committing any one particular offense that will bring sufficiently appropriate legal sanction to bear upon them, such as the bully and the pimp, are thus justified targets for the avenger.

4. As a corollary to the preceding, there is no presumption of innocence for people who don't deserve it. The hostility to the presumption of innocence is succinctly captured in *Unforgiven* by the tough sheriff, Little Bill, when he is accused of having "just kicked the shit out of an innocent man." Responds Bill: "Innocent? Innocent of what?" Bill's mean wit changes the meaning of innocence to guilt and makes it the condition to be accounted for, if not quite to be proved. Moreover, Bill was right. The "innocent man" had violated the town's firearms ordinance and had done so because he intended to kill. Innocence in this genre is a true moral and social condition, not a legal conclusion.
5. The criminal law's notions of proportionality do not accord with the demands of justice. Not all first-degree and second-degree murders are worse than all rapes. The notion that rape could never be a capital offense unless the victim is also killed is not an acceptable ranking of wrongs, which ranking must depend not on the internal coherence of the law, but on the sense of indignation and outrage the act elicits in third parties.

These disagreements tend mostly in one direction: they all evidence a belief that our law stacks the deck against justice by stacking it too much in favor of wrongdoers. But they can be further broken down into sets of rules designed to protect law-abiding citizens from an intrusive and hostile state—such as search-and-seizure rules, the right against self-incrimination—and rules that are concerned to prevent the horror of punishing the innocent. The genre dismisses the first set as simply not reflective of the real source of danger in contemporary society. It is not the state but our fellow citizen who threatens our liberty. The second—protecting the innocent—is disposed of by the formal demands of the genre itself, which defines the problem away. The innocent are thus, by definition, the victims of villains, not the victims of avengers. In this genre the avenger never gets an innocent person. If he does he compromises the form so drastically as to undo it. Avengers who kill the innocent are vigilantes who, when banded together, are the villains in a different and easily identified genre of which we may cite *The Oxbow Incident* as an example. Notice I did not say that avengers do not get the wrong man. It is just that the wrong man is never innocent. The genre finesses this issue (in accordance with a popular sense of justice) by taking "innocent" to mean decent people minding their own business; inno-

cence is emphatically not just having the fortune of being found legally not guilty because of some juror's notion of reasonable doubt.

I have tried in this essay to show that the concept of revenge as articulated in various antihonor discourses, whether they be moral, legal, or political-philosophical, is not borne out by revenge and honor-based cultures themselves. It is not unconstrained individual self-assertion in response to injuries as defined by that individual. Nor is that view of revenge borne out by popular culture. Avengers in the sagas and avengers in our films are both regulated by the audiences that observe them, precisely because both the saga hero and the modern avenger need the support of their audiences. For all the official handwringing over our delight in depictions of revenge, those depictions—critical as they are about the legal administration of justice, the leniency and uncertainty of punishment, the lack of concern with victims and their satisfaction—are as a matter of substance not all that opposed to the law. If popular culture's rules for establishing who and what are eligible for expiation are somewhat broader, they are still quite narrow. The avenger's target still has to have done wrong or harmed another. The avenger still has to convince the neutral observer that he has right. In other words, there are rules, very strict ones. The wild justice of revenge, for all its so-called wildness, is strictly constrained by the fact that it is justice. The filmic form in which this justice is portrayed depends on winning the support of viewers to the avenger's claims. We must be indignant, we must be outraged on behalf of victims, and then be satisfied by justified payback. The avenger cannot go it alone, inventing his own rules, his own theory of offense and injury. If he does, he goes over the edge into psychopathology, and then we are no longer seeing a classic revenge film.

If the avenger of American film and his saga counterpart share a richly constrained and social notion of revenge, they are otherwise quite different. The saga hero is driven by shame and by fear of shame, which are caught up and overlap variously with grief and anger. The avenger of film seems unmotivated by a sense of shame. He is, however, angry, but more often than not his anger is directed against his superiors or the authorities who must bear the ultimate blame for the mayhem of villains simply because they restrict him. In the saga world, justice and honor were inseparable; the notion of honor and justice as reciprocity, as paying back what you owe, largely unified them both in a field of exchange relations. The modern avenger has honor, but it is not that which motivates him; it is the desire to make wrongdoers pay and in the process to shame his superiors, who insist on making it so hard for him to make wrongdoers pay. But it is not the superiors who owe us; it is still the wrongdoers who do. They owe us for their acts of predation, for the harm they cause, for the anxiety they instill. This is hardly the saga model of restoring honor; it is rather the suburban model of reducing risk to an

insurable minimum. Finally, the saga form is too complex in the emotional demands it makes on the reader to be reduced to a single genus; not so the revenge film. Dirty Harry knows you will be outraged by the wrongdoer, hate him for what he has done and who he is, and experience the satisfaction of justice done when Harry makes your day by blowing him away.

Notes

1. See Susan Jacoby, *Wild Justice: The Evolution of Revenge* (New York: Harper and Row, 1983).
2. See Þorgils saga ok Haflíða, in vol. 1 of *Sturlunga saga*, ed. Jón Jóhannesson, Magnús Finnbogason, and Kristján Eldjárn, 2 vols. (Reykjavík: Sturlunguútgáfan, 1946); hereafter cited as S.
3. See II *Canute* 40 sec. 2: "It is the duty most incumbent upon a Christian king that he should avenge to the uttermost offenses against God, in accordance with the nature of the deed"; *The Laws of the Kings of England from Edmund to Henry I*, ed. A. J. Robertson (Cambridge: Cambridge University Press, 1925), 196.
4. *Prestsaga Guðmundar góða*, S1, chaps. 8–9.
5. Some saga characters were able to be generally forgiving and to be honored for their mildness of manner; e.g., Áskell goði in *Reykðæla saga* (F10) and Síðu-Hallr in *Njáls saga* (F12). But they were powerful chieftains. Clearly it was only honorable to be forgiving when one in fact was giving up something that one could take. Imagine just how ridiculous (or downright contumacious) it would be for, say, a serf to forgive his lord. Family sagas are cited by volume in the series *Íslenzk Fornit* (F) (Reykjavík: Hið Íslenzka Fornritafélag, 1933–). For translation of all family saga texts, see *The Complete Sagas of the Icelanders*, 5 vols., ed. Viðar Hreinsson (Reykjavík: Leifur Eiríksson, 1997).
6. On peacemakers and men of goodwill, see the discussion in William Ian Miller, *Bloodtaking and Peacemaking* (Chicago: University of Chicago Press, 1990), 264–66.
7. I make here the obligatory move of noting that the judgment of vulgarity is an imposition of one class on another. That is obvious, yet I wonder if there isn't truly a Platonic form of vulgarity that rightly essentializes the category. If we define aggressive self-assertion as that which must recognize its own success solely by the fact that it disgusts the other, then we have liberated the notion of vulgarity from such easy relativistic dismissal.
8. Ernest van den Haag, *Punishing Criminals* (New York: Basic Books, 1975), 10, quoted in John Kaplan and Robert Weisberg, *Criminal Law*, 2nd ed. (Boston: Little Brown, 1991), 29.
9. Robert Nozick, *Philosophical Explanations* (Cambridge, Mass.: Harvard University Press, 1982), 366–68. I have abridged Nozick's account and subjected it to some minor paraphrasing.
10. See generally Miller, *Bloodtaking and Peacemaking*, where I deal much more fully with the intricacies of vengeance.
11. The *Leges Henrici Primi* do not make this a matter of implicit norm, but formally articulate it (64, 2b): "For the oath of a thegn equals the oaths of six villeins; if he is killed he is fully avenged by the slaying of six villeins"; *Leges Henrici Primi*, ed. L. J. Downer (Oxford: Clarendon Press, 1972), 204.
12. For a rare exception in which all those complicit are either killed or outlawed, see *Laxðæla saga* (F5), chaps. 49–51 (family sagas are cited by chapter, since most editions and translations agree on chapter division). Most often little players bore the brunt. They would get outlawed while the bigger fry were able to settle for an arbitrated settlement that usually substituted a transfer of wealth or exile of limited duration for full outlawry.
13. See *Finnboga saga* (F14), chap. 41; *Íslendinga saga* (S1), chaps. 3, 25, 129; *Sturlu saga* (S1), chaps. 5, 23.

14. With *Víga-Glúms saga* (F9), chap. 19, compare *Þorsteins þáttir stangarhöggs* (F11).
15. *Grágás* Ia 147, 149; II 302, 303–4; cited by volume and page to the editions of Vilhjálmur Finsen: vol. 1: *Grágás: Islændernes Lovbog i Fristatens Tid, udgivet efter det Kongelige Bibliotheks Haandskrift* (Copenhagen: Berlings Bogtrykkeri, 1852; reprint, Odense: Odense University Press, 1974); vol 2: *Grágás efter det Arnamagnæanske Haandskrift Nr. 334 fol., Staðarhólsbók* (Copenhagen: Gyldendal, 1879; reprint, Odense: Odense University Press, 1974).
16. *Grágás* Ia 164, II 331.
17. The sagas give scant sense that prejudgment vengeance was governed by these rules. See Andreas Heusler, *Das Strafrecht der Isländersagas* (Leipzig: Duncker & Humblot, 1911), 54.
18. *Grettis saga* (F7), chap. 15; *Víga-Glúms saga* (F9), chap. 8; *Ljósvefninga saga* (F10), C-version, chap. 13.
19. *Víga-Glúms saga*, (F9), chap. 8.
20. William Ian Miller, *Humiliation* (Ithaca, N.Y.: Cornell University Press, 1993), chap. 3.
21. See Michelle Z. Rosaldo, *Knowledge and Passion: Ilongot Notions of Self and Social Life* (Cambridge: Cambridge University Press, 1980), and “The Shame of Headhunters and the Autonomy of Self,” *Ethos* 11 (1983): 135–51; and Renato Rosaldo, *Culture and Truth: The Remaking of Social Analysis* (Boston: Beacon Press, 1989), 1–21.
22. See *Egils saga* (F2), chap. 24; *Hávarðar saga Ísfirðings* (F6), chap. 5; also in some respects *Njáls saga* (F12), chap. 129.
23. Þórhallr Ásgrímsson (*Njáls saga* (F12), chap. 132); Skallagrímr (*Egils saga* (F2), chap. 24).
24. I am referring to the well-known role of women as goaders of their reluctant men to aggressive action; see Miller, *Bloodtaking and Peacemaking*, 212–14, and *Humiliation*, 104–5.
25. But that does not mean it did not happen; see, e.g., *Njáls saga* (F12), chap. 78.
26. There was a legal way around this. You could summon the person you killed posthumously for the act that he had committed that incurred your revenge. In this way you could have your revenge redefined as, in effect, the killing of an outlaw. See Miller, *Bloodtaking and Peacemaking*, 252, 363 n. 50.
27. *Grágás* Ia 174.
28. The term comes from Carol Clover’s definitive study of the slasher genre in *Men, Women, and Chain Saws: Gender in the Modern Horror Film* (Princeton, N.J.: Princeton University Press, 1992), chap. 1.
29. *Njáls saga*, chap. 44. See Miller, *Bloodtaking and Peacemaking*, chap. 6. Note that seeing the wronged person as the debtor makes it difficult as a conceptual matter for the wronged person to forgive the wrongdoer. It is not debtors who are in the position to forgive what they owe.
30. As Clover points out, in *Men, Women, and Chain Saws*, in low-budget B films women can avenge themselves; in mainstream big-budget films men or the law take over on behalf of the female victim.
31. The villains in these films are often so execrable that they are not meaningfully engaged in a competition for honor with the hero. That the hero suffers beatings at their hands does not lessen the avenger’s honor so much as make the villain even more execrable. Where the hero’s honor is engaged is usually against his commanding officer, and the triumph of the hero is often depicted as more a shame to the commanding authorities who doubted or obstructed the hero than to the villain who lies dead. This fact shows just how central the critique of legal institutions is to the form.
32. Clover (*Men, Women, and Chain Saws*, 148–49) asks us to compare the knowing smile of satisfaction on the face of the avenging rape victim that closes out *I Spit on Your Grave*, a low-budget pure rape-revenge film, with the picture of a courthouse, the closing

shot of *The Accused*, a big-budget softening of the rape-revenge genre. The rape victim in the former has nothing more to fear from her tormentors. I would add that legal endings usually make for a distinctly weaker sense of satisfaction. The death of the wrongdoer brings serious closure to the business at hand; a guilty verdict is only a stay, a promise of closure, unless it ends in capital punishment.

33. Popular culture has not yet gotten around to blaming juries for failings in the system. The failings are still attributed to corrupt and inept officialdom, not to lay people who are just trying to do their best but getting it wrong. Surely one could make films blaming the five or six Menendez jurors who were willing to give credence to any claim, no matter how unsubstantiated, of child abuse, or those willing to slap the wrist of the man who put a brick through Reginald Denny's head, but that has not happened. Rather, I suspect, the critique will continue to follow the *Dirty Harry* and *Death Wish* line: what is wrong is that the law keeps evidence of the defendant's prior wrongs from the jury, but lets them hear any outlandishly manufactured claim of the wrongdoer's victimhood.